

REMARKS

The Office Action mailed May 18, 2007, has been received and reviewed. Claims 1-13 are currently pending in the application. Claims 1-13 stand rejected. Applicant has amended claim 1, and respectfully requests reconsideration of the application as amended herein.

Claim Objections

Claim 1 was objected to because of the informality in line 1 of the claim preamble regarding the adjacent nouns of “transmitter” and “apparatus”. Applicant has amended claim 1 to delete “apparatus” from the preamble. Accordingly, Applicant respectfully requests the objection to claim 1 be withdrawn.

35 U.S.C. § 102(e) Anticipation Rejections

Anticipation Rejection Based on U.S. Patent No. 6,771,700 to Razoumov et al.

Claims 1-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Razoumov (U.S. Patent No. 6,771,700). Applicant respectfully traverses this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The 35 U.S.C. § 102(e) anticipation rejections of claims 1-13 are improper because Razoumov does not describe, either expressly or inherently, the identical inventions in as complete detail as are contained in the claims. Since Razoumov does not describe, either expressly or inherently, the identical inventions in as complete detail as are contained in the claims, Razoumov cannot anticipate under 35 U.S.C. § 102 the presently claimed invention of independent claim 1, and claims 2-5 depending therefrom and independent claim 6, and claims 7-13 depending therefrom.

Claims 1-5

Applicant's invention as presently claimed in independent claim 1, from which claims 2-5 depend, recites:

1. A transmitter, comprising:
 - a processor operative to control transmission and retransmission of data; and
 - a memory storage device operative for storing a plurality of computer-readable instructions, comprising:
 - a first set of instructions for receiving a transmission frame error rate and a retransmission frame error rate from a receiver;
 - a second set of instructions for ***determining a transmission energy setpoint as a function of the transmission frame error rate*** and a transmission quality, wherein the determination of the transmission energy setpoint is responsive to an update trigger; and
 - a third set of instructions for ***determining a retransmission energy setpoint as a function of the retransmission frame error rate*** and a retransmission quality, wherein the determination of the retransmission energy setpoint is responsive to the update trigger. (Emphasis added.)

At least Applicant's claimed elements of "***determining a transmission energy setpoint as a function of the transmission frame error rate***" and "***determining a retransmission energy setpoint as a function of the retransmission frame error rate***" are not disclosed in Razoumov. Razoumov generally discloses a first transmission according to a first energy E1 and a second transmission according to a second energy E2.

The Office Action alleges:

- With respect to claim 1, Razoumov discloses a transmitter apparatus (Fig. 1) comprising:
- a processor operative to control transmission and retransmission of data (Fig. 3, processor 308); and
 - a memory storage device operable for storing a plurality of computer-readable instructions ..., comprising:
 - a first set of instructions for receiving a transmission frame error rate and a retransmission frame error rate from a receiver (col. 4, lines 30-40 and col. 7, formula 22, instructions for receiving first FER1 and second FER2);
 - a second set of instructions for ***determining a transmission energy setpoint as a function of the transmission frame error rate (col. 7, formula 22, E2 is determined according to received $f(E1)$ or FER1. Herein, $f(E1)$ is the transmission frame error rate and ***E2 is the transmission energy setpoint***)*** and the transmission quality (col. 7, lines 16-20, transmitting station adaptively evaluates feedback information received from the receiving station, e.g., attenuation, fading, number of multi-paths, velocity, and data rate); wherein the determination of the

transmission energy setpoint is responsive to an update trigger (col. 7, formula 22, received $f(E1)$ is the update trigger); and
 a third set of instructions for *determining a retransmission energy setpoint as a function of the retransmission frame error rate (col. 7, formula 22, E3 is calculated as a function of received $f(E2)$* . Herein, $f(E2)$ is the retransmission frame error rate and E3 is retransmission energy setpoint) and the retransmission quality (col. 7, lines 16-20, transmitting station adaptively evaluates feedback information received from the receiving station, e.g., attenuation, fading, number of multi-paths, velocity, and data rate), wherein the determination of the retransmission energy setpoint is responsive to the update trigger (col. 7, formula 22, received $f(E2)$ is the update trigger). (Office Action, pp. 3-4; emphasis added).

NOTE: The Office Action’s allegation that “E2 is the transmission energy setpoint” is incorrect. E2 is the REtransmission energy “setpoint” and not the transmission energy “setpoint.”

Specifically, Razoumov discloses “E2 is energy for retransmission”. (Razoumov, col. 4, line 55; emphasis added.)

Accordingly, the alleged disclosure of Applicant’s claimed elements of “*determining a transmission energy setpoint as a function of the transmission frame error rate*” and “*determining a retransmission energy setpoint as a function of the retransmission frame error rate*” as some how being disclosed by Razoumov’s recitation of “energies E1 and E2 [being] properly selected”, is not possible. Razoumov discloses the existence of transmission energy E1 and retransmission energy E2, however, “determining” these setpoints is not disclosed in Razoumov. The Office Action erroneously points to Razoumov’s “equation 22” in support for “determining” these setpoints, however, Razoumov’s equation 22 is for calculating the total energy $\langle E \rangle$ (col. 5, line 2) from transmission energy E1 (col. 4, line 54) + measured frame error rate $f(E1)$ (col. 4, line 65) • REtransmission energy E2 (col. 4, line 55) + Accordingly, Razoumov’s equation 22 does not disclose “determining” anything, as alleged, other than the total energy $\langle E \rangle$ (col. 5, line 2) and therefore cannot disclose Applicant’s claim elements of “*determining a transmission energy setpoint*” and “*determining a retransmission energy setpoint*”.

In fact any disclosure in Razoumov of “determining” “transmission energy setpoint E1” and “retransmission energy setpoint E2” is limited to recitations of “energies E1 and E2 are *properly selected*” (col. 4, lines 38-39; emphasis added) and “*choose* E1 and E2 in a manner

yielding minimum total transmission energy” (col. 4, lines 45-46; emphasis added).

Accordingly, Razoumov’s disclosure of “*properly selected*” and “*choose*” transmission energy E1 and retransmission energy E2 does **not** disclose the “identical invention [] in as complete detail as is contained in the claim” as is required for anticipation under 35 U.S.C. §102.

Therefore, since at least Applicant’s claimed elements of “*determining a transmission energy setpoint as a function of the transmission frame error rate*” and “*determining a retransmission energy setpoint as a function of the retransmission frame error rate*” are not disclosed in “as complete detail as is contained in the claim” as is required for anticipation under 35 U.S.C. §102, Razoumov cannot anticipate under 35 U.S.C. §102 Applicant’s invention as presently claimed in amended independent claim 1, and claims 2-5 depending therefrom.

Accordingly, such claims are allowable over the cited prior art and Applicant respectfully requests that such rejections be withdrawn.

Claims 6-13

Applicant’s invention as presently claimed in independent claim 6, from which claims 7-13 depend, recites:

6. In a wireless communication system, a method comprising:
determining a transmission energy setpoint to achieve a transmission frame error rate;
adjusting the transmission energy setpoint on occurrence of a transmission error,
wherein the transmission error is received from a receiver;
determining a retransmission energy setpoint to achieve a retransmission frame error rate;
and
adjusting the retransmission energy setpoint on occurrence of a retransmission error,
wherein the retransmission error is received from the receiver. (Emphasis added.)

At least Applicant’s claimed elements of “*adjusting the transmission energy setpoint on occurrence of a transmission error*” and “*adjusting the retransmission energy setpoint on occurrence of a retransmission error*” are not disclosed in Razoumov. Razoumov generally discloses a first transmission according to a first energy E1 and a second transmission according to a second energy E2. Applicant herein sustains the above-proffered arguments regarding the lack of disclosure of “*adjusting the transmission energy setpoint on occurrence of a transmission error*” and “*adjusting the retransmission energy setpoint on occurrence of a retransmission error*”.

Therefore, since at least Applicant's claimed elements of a "*adjusting the transmission energy setpoint on occurrence of a transmission error*" and "*adjusting the retransmission energy setpoint on occurrence of a retransmission error*" are not disclosed in "as complete detail as is contained in the claim" as is required for anticipation under 35 U.S.C. §102, Razoumov cannot anticipate under 35 U.S.C. §102 Applicant's invention as presently claimed in independent claim 6, and claims 7-13 depending therefrom.

Accordingly, such claims are allowable over the cited prior art and Applicant respectfully requests that such rejections be withdrawn.

CONCLUSION

Claims 1-13 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: September 18, 2007

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